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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/915,805	07/26/2001	Michael Heaton	60,130-1109; 01MRA0216	7507	
26096 75	590 08/26/2003				
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350			EXAMINER		
			TORRES, MELANIE		
BIRMINGHAM	M, MI 48009		ART UNIT	PAPER NUMBER	
			3683		
			DATE MAILED: 08/26/2003	•	

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Educations of time may be writing under the provision of 3°C RF1 135(e). In no event, however, may a reply be timely filled  Educations of time may be writing the state of the communication of 3°C RF1 135(e). In no event, however, may a reply be timely filled  Education of the reply separated below is like as but hirty (30) days, a reply writin the stateory minimum of thirty (30) days will be considered timely.  If the period for reply separated above, the maximum stations praided will pay and will agrise fix (8) MONTHS from the mailing date of this communication.  Faller to reply which the set of estended period for reply will, by a fault, cause the application to become ARAPOONED (35 U.S. C; § 1313).  This action is FINAL.  2b) This action is FINAL.  2b) This action is sometimed. See 3° CRT 1704(b).  Status  1) Responsive to communication(s) filled on 0.5 June 2003.  2a) This action is FINAL.  2b) This action is reply and the provision of Claims.  4) Claim(s) 15-20 Is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 15-20 Is/are allowed.  6) Claim(s) 15-20 Is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are subject to restriction and/or election requirement.  Application Papers  9) The proposed drawing correction filed on is/are: a) cacepted or b) objected to by the Examiner.  Application Papers  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1 Certified copies of the priority documents have been received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.  Attachment(s)  10) Noice of References Clied (PTO-892)				(			
## Examiner ## Art Unit ## Metainer Torres ## 3683  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled.  E the period for reply is pecified above, the maintimus featuring yield will supply and will acquire SK (6) MONT HST from the mailing date of this communication reply is generally active the beautiful supply and will expire SK (6) MONT HST from the mailing date of this communication reply aspetited above, the maintimus featuring period will supply and will expire SK (6) MONT HST from the mailing date of this communication for reply aspetited above, the maintimus featuring period will supply and will expire SK (6) MONT HST from the mailing date of this communication, when it form the mailing date of this communication, which is maintimus to the maintimus featuring the maintimus featuring the supply flow. Any reply iscentive by the Office Intern them there mades the the mailing date of this communication, which may reduce any control period term adjustment. Set 37 CFR 1.704(b).  Status  1)		Application No.	Applicant(s)				
Melanis Torres   3683		09/915,805	HEATON ET AL.				
— The MALLING DATE of this communication appears on the cover sheet with the correspondence address—Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of J CER 1.13(q). In no event, however, may a reply be timely filled that 93 (q) MONTH from the malling date of this communication.  Extensions of time may be available under the provisions of J CER 1.13(q). In no event, however, may a reply be timely filled that 93 (q) MONTH from the malling date of this communication.  Fallulation for may be available under the malling date of this communication.  Fallulation from digutineum.  Fallulation from digutineum.  Fallulation is FINAL.  20 (2) This action is final.  3) Is ince this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under £x parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 15-20 is/are pending in the application.  4) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) is/are objected to.  9) The specification is objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is/are provided in reply to this Office action.  12) The proposed drawing correction filed on is/	Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of times may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filed  - Extensions of times may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filed  - Extensions of times may be available under the provisions of 37 CFR 1.35(b). In no event, however, may a reply be timely filed  - Extensions of times may be available under the provisions of 37 CFR 1.35(b). The cather of the provisional application.  - If NO period for reply a specified abover, the maximum statutory prointed will apply and will expire \$2X (0) AGN THS from the mailing date of this communication.  - If NO period for reply applicated between the maximum statutory prointed will apply and will expire \$2X (0) AGN THS from the mailing date of this communication, even if timely filed, may reduce any scarred platent term adjustment. See 37 CFR 1.704(b).  - Status  - This action is FINAL.  - 2(b) This action is non-final.  - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 c.D. 11, 453 O.G. 213.  - Disposition of Claims  - 4) Claim(s) is/are allowed (a) Claim(s) is/are allowed (b) Claim(s) is/are allowed (claim(s) is/are allowed (claim(s) is/are allowed (claim(s) is/are objected to (claim(s)							
THE MAILING DATE OF THIS COMMUNICATION.  Educations of time may be variable under the provision of 30° CPR 1.15(6). In no event, however, may a raply be timely filed after SX (8) MONTHS from the mailing date of this communication.  It NO particle for the pit specified bows, the machine of the communication of the communication of the pit specified bows, the machine particle of the pays and will pagin sky (8) MONTHS from the mailing date of this communication.  It NO particle for the pit specified bows, the machine pagin and will pagin sky (8) MONTHS from the mailing date of this communication.  Any ruply received by the Office in the thor brief months after the mailing date of this communication, when if smally filed, may reduce any secured plant term and plant	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with	n the correspondence address				
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#### **DETAILED ACTION**

#### Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a movable driveline component" and " a stationary driveline component" as claimed in claim 15.

#### Claim Rejections - 35 USC § 112

- 2. The following is a quotation of the first paragraph of 35 U.S.C. 112:
  - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
- 3. Claims 15-20 rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The "movable driveline component" and "stationary driveline component" is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). It is unclear to the examiner which components are the "movable driveline component" and the "stationary driveline component" as claimed in claim 15. See objection to the specification above. Claims 16-20 are rejected as they are dependent upon independent claim 15. Applicant argues in the amendment filed March 17, 2003 that the "stationary driveline component" is the transmission housing. However, while the "stationary driveline component" is claimed in claim 15, the "transmission housing" is claimed in claim 18 as an independent element.

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Therefore, one skilled in the art would not be able to make and use the invention as argued.

# Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

the treaty defined in section 351(a).

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under
- 5. Claims 15 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Fleischer et al.

Re claim 15, Fleischer et al. discloses a vehicle driveline parking brake assembly a moveable driveline component (18), a stationary driveline component (20) that remains stationary relative to a portion of the vehicle, a braking member (not shown but disclosed in column 6, lines 27-28) associated with the movable driveline component (18) such that the braking member remains stationary relative to the moveable driveline component, an engaging portion (11) associated with the stationary driveline component (20), the engaging portion selectively movable into a braking position where the engaging portion engages the braking member, a spring (13) that biases the engaging portion into the braking position and an electrically powered actuator (1) that

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selectively moves the spring and releases the engaging portion out of the braking position. (Figures 1 and 2) It is the examiner's position that at least the portion of the braking member that is attached to the engaging portion (11) would be stationary relative to the moveable driveline component (18).

Re claim 17, Fleischer et al. discloses wherein the electrically powered actuator (1) maintains the spring (13) in a compressed position to keep the engaging portion out of the braking position. (column 6, lines 29-33)

# Claim Rejections - 35 USC § 103

- 6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischer et al. as applied to claim 15 above in view of Bae.

Re claim 16, Bae discloses wherein a braking member comprises a drum that is fixed from rotation on a driveline shaft. The examiner takes official notice that drums are well known fixed braking members in vehicles.

### Response to Arguments

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8. Applicant's arguments with respect to claims 15-20 have been considered but are

moot in view of the new ground(s) of rejection.

9. Applicant's arguments in the last Office action are persuasive and, therefore, the

finality of that action is withdrawn.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Melanie Torres whose telephone number is (703)305-

0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jack Lavinder can be reached on (703)308-3421. The fax phone numbers

for the organization where this application or proceeding is assigned are (703)308-2571

for regular communications and (703)308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703)308-

1113.

MT

August 20, 2003

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